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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,857	12/11/2003	Gary Neal Poovey		9132

7590 05/12/2004
GARY NEAL POOVEY
28557 LEMON AVENUE
ESCALON, CA 95320

EXAMINER	
HEALY, BRIAN	
ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/732,857	POOVEY, GARY NEAL	
	Examiner	Art Unit	
	Brian M. Healy	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05112004</u> . | 6) <input type="checkbox"/> Other: ____. |

Brian Healy

102 REJECTIONS

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Donald et. al., U.S.P. No.6,320,994.

Donald et. al., U.S.P. No.6,320,994 (Figs.1-11) an optical wavelength on/off switch for use in optical multiplexing comprising: optical waveguides 121,122, 123 which either reflects or passes optical wavelengths and a switching light channel 111,113 with larger and smaller cross sections that uses compressible fluid and/or gas 117, with the switching light channels also including transparent piezoelectric sections 113 (See also Col.5, lines 50-68 and Col.6, lines 1-5) which acts alter the pressure/ volume (i.e. alters the cross sectional area) of the light channel in order to cause the movement of fluid and/or gas bubble when the piezoelectric sections are exposed to an electrical field, which clearly, fully meets Applicant's claimed limitations.

Any inquiry concerning the merits of this communication should be directed to Examiner Brian M. Healy at telephone number (571) 272-2347. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 4:00PM. Any inquiry of a general or clerical nature (i.e. a

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request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.

BRIAN M. HEALY
Primary Patent Examiner
Group Art Unit 2874

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:: Fouquet et. al., U.S.P. No.6,487,333 (Figs.1-34), Ford et. al., U.S.P. No.6,178,033 (Figs.1-6), Wagner, U.S.P. No. 5,425,115 (Figs.1-2b), Patel et. al., U.S.P. No.6,075,512 (Figs.1-13), and LoCascio et. al., U.S.P. No.6,697,548 (Figs.1-17).

All of the prior art documents submitted by applicant in the Information Disclosure Statement filed on 12/11/03, have been considered and made of record. Note the attached initialed copy of form PTO-1449.


Brian Healy
Primary Examiner